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ILLINOIS COMMERCE COMMISSION

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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Earline Ruffin,
Complainant
v.
Peoples Gas Light & Coke Company,
Respondent.
Complaint as to denied services
based on a previous tenant's bill
in Chicago, Illinois.

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EXCEPTIONS TO PROPOSED ORDER

Now comes the Complainant, Earline Ruffin, and for her exceptions to the Administrative Law Judge's Proposed Order states as follows:

1. Respondent's evidence could not establish any specific date the alleged diversion of gas occurred. It could not establish any date but used the date of March 8, 1991 which was based on an actual reading of the gas meter for this account which started in 1990. It would appear that any subsequent gas meter reading could also be used as a starting point or to make a comparison between bills. The respondent is using the date of March 8, 1991 as the date of the diversion. This is still mere conjecture to enable respondent to bill for periods of time when maybe no diversion had taken place. Complainant should not be held liable for the speculative amount of \$19,780.53.

2. Further testimony by Ms. Estrada and Ms. Anderson stated there degree day analysis was based on all 7 of the appliances working. Their testimony further stated that if only one furnace and one water heater were inoperable then their calculations would be considerably less. Therefore their analysis is flawed. The evidence was clear that only one furnace and one water heater not working. Further the Complainant lived on the first floor and the second floor was always vacant. These facts alone would make the respondent's calculations incorrect and thus it would be pure speculation that there was any diversion at all, taking into consideration that respondent's meter being at least 20 years old could have been malfunctioning showing low gas usage.

3. Also the calculations used by respondent is flawed because it did not take into consideration people on vacation or away from home during the day when there was no gas usage, excepting keeping the residence warm to avoid water pipes freezing during the winter.

4. Further respondent's claim for \$19,780.53 for the alleged low gas consumption from March 8, 1991 to October 12, 1999 would average about \$217.00 a month. This being a one family dwelling with only two adults residing therein. The calculations being based on all appliances working and all floors occupied. Ms. Ruffin

testified that she paid approximately \$2,000 a year for her gas consumption. Respondent has never produced the record of payments made by Ms. Ruffin or her tenant. A comparison of the amount allegedly owed by the tenant for the period he was in possession would average about \$318 per month. Therefore the comparison between the time Ms. Ruffin was in possession and the time the tenant had possession is not approximately the same as stated by Ms. Anderson. This figure does not take into account that two appliances were not working and that only the first floor was occupied. Again respondent goes on mere speculation.

5. There is no denying that two of the appliances were not working and that only the first floor was occupied and the second floor was vacant. These conditions certainly would bring about a lower consumption of gas.

6. The degree day analysis submitted by respondent calculates what the optimum gas usage would be for a residence with all appliances working and all levels of the building occupied. There is no showing what payments were made by complainant or her tenant to offset the alleged low gas usage. No credits are ostensibly given by the degree day analysis.

7. With respect to Mr. Smith's testimony he never testified that he gained access to the premises by the complainant. The testimony of the complainant is consistent and credible when she stated she never saw Mr. Smith at her home. Her statement that the meter was not in the back of the basement but was on another level which she described as a porch affects Mr. Smith's credibility.

In view of the above the complainant is not liable for unbilled gas consumption, where respondent's witnesses state that had they known that two of the appliances were not operable their calculation would be less. The amount claimed as owing is pure speculation and and for that reason and for the reason that respondent could not pin point the date of the alleged diversion. Respondent could not find where the diversion was made in the building, if in fact there was a diversion at all.

The proposed order should find Complainant not liable to the respondent for alleged non billed gas usage from March 8, 1991 to October 12, 1999.


Attorney for Complainant

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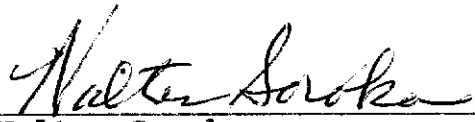
CERTIFICATE OF SERVICE

I, WALTER SOROKA, Attorney for Complainant, certify that on November 15, 2006 I served a copy of the attached Exceptions to Proposed Order, by placing a copy thereof to be placed in the U.S. Mail for next day delivery with proper postage prepaid, addressed to each of the parties indicated below.

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